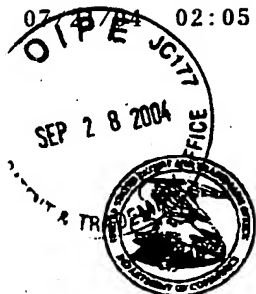


JFW



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/787,214	02/27/2004	Ole-Bendt Rasmussen	3330

WILLIAM J. DANIEL
6100 WOODLAND TERRACE
MCLEAN, VA 22101-4225

CONFIRMATION NO. 5707

FORMALITIES LETTER



OC000000012749738

Date Mailed: 05/24/2004

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The specification is missing.
A complete specification as prescribed by 35 U.S.C. 112 is required.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

ma
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Docket No.:
RASMUS 3.3-001 CONT
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ole-Bendt Rasmussen

Application No.: 10/787,214

Group Art Unit: 1761

Filed: February 27, 2004

Examiner: Not Yet
Assigned

For FOOD PRODUCT WHICH HAS
ARTIFICIALLY BEEN GIVEN A CELL-
LIKE STRUCTURE BY COEXTRUSION OF
SEVERAL COMPONENTS, AND METHOD
AND APPARATUS FOR MANUFACTURING
SUCH FOOD PRODUCT

RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

MAIL STOP MISSING PARTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing please find a copy of the Specification and a newly executed declaration, both in connection with the captioned application. Please charge our Deposit Account No. 12-1095 in the amount of \$130.00 covering the fee set forth in 37 CFR 1.16(e). Also enclosed is a copy of PTO form entitled "NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION."

Plainly, this submission is being made later than the two-month response period set in the Notice. By way of explanation, the captioned application ("the '214 application") was filed on February 27, 2004, claiming priority under §120 on the basis of U.S. Application no. 09/926,310 ("the '310

Application No.: 10/787,214

Docket No.: RASMUS 3.3-001 CONT

application"). In response to the Notice (and particularly the statement therein that Applicant was not entitled to a filing date of February 27, 2004, and that the filing date would be the date on which the Office received the specification), Applicant filed a Petition in connection with the '310 application and the captioned application. The Petition was filed on July 26, 2004. Since July 24, 2004 -- the two-month statutory response period to the Notice -- fell on a Saturday, Applicant submits that the Petition filed on the next business day, Monday, July 26, 2004, was a timely response to the NOTICE.

The relief requested by Applicant was for the purpose of maintaining pendency between the '310 and the '214 applications. In the Petition, Applicant argued, among other alternative grounds, that the specification of the '214 application was, in fact, present in the transmittal papers filed on February 27, 2004, because it was "incorporated by reference".

Applicant's Petition was dismissed. However, on the basis of the facts presented in the Petition, the Petitions Examiner recommended Applicant to pursue another alternative, namely to submit a petition under Rule 137 (b) to revive the '310 application, and to respond to the Notice in connection with the '214 application by providing a copy of the specification and an explanation for the delay in providing it. The present facts and circumstances indicate that Applicant believed that the Petition served as a timely and complete response to the Notice.

In view of the foregoing, Applicant respectfully requests the Office to grant the '214 application a filing date. In the event that the Office determines that such action cannot be taken and/or that proceedings in connection with the captioned application are terminated, Applicant respectfully requests the Office to consider and act upon this submission as

Application No.: 10/787,214

Docket No.: RASMUS 3.3-001 CONT

a Petition under Rule 137 (b) to revive the '214 application on the ground that it was unintentionally abandoned. Applicant authorizes the Director to charge the requisite fee (under Rule 1.17(h)) and any other fees that may be due and owing to Deposit Account No. 12-1095.

If the Examiner has any questions concerning this application, he or she is requested to call Applicant's attorney at (908) 654-5000. If any additional fees are required by the present Communication, the Examiner is hereby authorized to charge them to our Deposit Account No. 12-1095.

Dated: September 27, 2004

Respectfully submitted,

BY Shawn P. Foley

Shawn P. Foley

Registration No.: 33,071

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

518129_1.DOC

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371**

3330

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)

Not assigned

INTERNATIONAL APPLICATION NO.

INTERNATIONAL FILING DATE

PRIORITY DATE CLAIMED

PCT/EP 00/03713

13 April 2000

13 April 1999

TITLE OF INVENTION

FOOD PRODUCT WHICH ARTIFICIALLY HAS BEEN GIVEN A GELL-LIKE STRUCTURE BY ETC

APPLICANT(S) FOR DO/EO/US

OLE-BENDT RASMUSSEN

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☒ This is an express request to begin national examination procedures (35 U.S.C. 371(n)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☒ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☒ has been communicated by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☒ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto.
 - b. ☒ has been previously submitted under 35 U.S.C. 154(d)(4) by the International Bureau.
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☒ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A **FIRST** preliminary amendment.
14. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
15. ☐ A substitute specification.
16. ☐ A change of power of attorney and/or address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
18. ☐ A second copy of the published International application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☐ Other items or information:

U.S. APPLICATION NO. (Rev. 1-1-97)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S FEE NUMBER
------------------------------------	-------------------------------	-----------------------

21. ☒ The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)):
 Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO. \$1046.00

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$890.00

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$746.00

International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$710.00

International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00

ENTER APPROPRIATE BASIC FEE AMOUNT = \$890.00

Surcharge of \$130.00 for furnishing the oath or declaration later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492(e)). \$

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$
Total claims	70 - 20 =	50	x \$18.00	\$ 900.00
Independent claims	5 - 3 =	2	x \$84.00	\$ 168.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable) 0 + \$280.00				\$ -0-
TOTAL OF ABOVE CALCULATIONS =				\$
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$ 1,958.00
SUBTOTAL =				\$
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$
TOTAL NATIONAL FEE =				\$ 1,958.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$48.00 per property +				\$
TOTAL FEES ENCLOSED =				\$ 1,958.00
				Amount to be refunded: \$
				charged: \$

a. ☒ A check in the amount of \$ 1,958.00 to cover the above fees is enclosed.

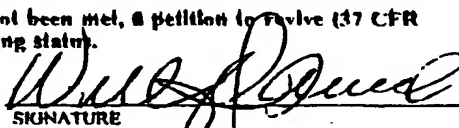
b. ☐ Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 04-0070. A duplicate copy of this sheet is enclosed.

d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-203R.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137 (a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:


 SIGNATURE
 WILLIAM J. DANIEL
 NAME
 16,585
 REGISTRATION NUMBER

BEST AVAILABLE COPY



Application No. (if known): 10/787,214

Attorney Docket No.: RASMUS 3.3-001 CONT

Certificate of Hand Delivery

I hereby certify that this correspondence is being hand delivered to the United States Patent and Trademark Office at the address shown below:

Crystal Plaza Lobby
U.S. Patent and Trademark Office
2011 South Clark Place
Room 1B03
Arlington, Virginia 22202
Attn: E. Shirene Willis

on September 28, 2004
Date

Signature

Chris Robbins

Typed or printed name of person signing Certificate

Note: The following papers are submitted:

Notice of Incomplete Nonprovisional Application mailed 5/24/2004
Response to Notice of Incomplete Nonprovisional Application (3 pages)
Executed Declaration (2 pages)
Specification (copy of PCT/EP00/03713)

517754_1.DOC